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IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 633

CANDIS O. RAY, t/a CANDIS O. RAY AGENCY,
Petitioner,

v.

KANSAS CITY STOCKYARDS COMPANY OF MAINE,
A CORP., t/a GOLDEN OX RESTAURANT, ET AL,

and

RUTH G. GRAEE,
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

CANDIS O. RAY,
Pro se
2700 Connecticut Avenue, N.W.
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IN THE

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OCTOBER TERM, 1970

No. ———

CANDIS O. RAY, t/a CANDIS O. RAY AGENCY,
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KANSAS CITY STOCKYARDS COMPANY OF MAINE,
A CORP., t/a GOLDEN OX RESTAURANT, ET AL.,

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RUTH G. GRAEF,
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Petitioner Candis O. Ray prays that a writ of certiorari issue to review the herein judgment and order of the United States Court of Appeals for the District of Columbia Circuit.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the District of Columbia Circuit is attached as Appendix B (No. 23,789), and judgment Appendix C (20,444). Appendix A is identified as the last order entered June 3,

1970 denying petitioner's petition for reconsideration of order issued April 28, 1970. Appendices D, E and F are identified as the rulings in the United States District Court for the District of Columbia Circuit.

JURISDICTION

The jurisdiction of this court is conferred by U.S.C., Sec. 1254(1).

QUESTION PRESENTED

Whether in the light of documented evidence of coercion and collusion exercised between and among the attorneys for both sides in forcing a settlement of one suit as a result of the harrassment of another suit instituted as a counter suit of the first wherein gain would be had in the settlement thereof, constitutes fraud and a violation of the Bill of Rights and the Fourteenth Amendment under citizen's rights of equal protection and due process of law.

CONSTITUTIONAL PROVISIONS INVOLVED

The Federal Constitution's Bill of Rights protecting citizen's rights and property, and specifically the Fourteenth Amendment of the Constitution as relates to due process.

STATEMENT OF THE CASE

Because of the unusual circumstances of this case involving collusion and fraud by three Washington attorneys, the petitioner has had difficulty in obtaining counsel in the Washington D. C. area, as the attorneys contacted were reluctant to get involved, and therefore petitioner is forced to represent herself, and prays indulgence of the Court.

There has been no attorney of record representing petitioner in the infringement of copyright suit other than

the attorney who originally filed the case, and no other attorney involved in the connecting slander suit than the Washington law firm Friedlander and Friedlander, with ruling from appeal to the United States Court of Appeals was rendered without a written opinion, or reason wherefor.

The petitioner is a well known and prominent Washington, D. C. resident where for a number of years she has owned and operated an advertising agency and public relations firm, with the most recent years devoted to civic projects and community activities in services for trade and professional associations in the planning of and executing their program activities for conventions, legislative conferences, international seminars and world congresses, and specializing in arranging the social affairs for the Ladies Programs in conjunction with and the cooperation of the Washington Convention and Visitors Bureau of the Washington Metropolitan Board of Trade, of which petitioner is and has been a member in good standing for over ten years.

An infringement of copyright suit was filed in the United States District Court for the District of Columbia Circuit by petitioner on date January 20, 1965 against respondents: Kansas City Stockyards Company of Maine, t/a Golden Ox Restaurant; National Broadcasting Company; Impact Advertising Agency and J. Gregory Aires, t/a Aires Publishing Company. Case No. C. A. 187-65. Attorney James S. Gardiner represented petitioner. Hans A. Nathan represented Kansas City Stockyards Company of Maine and the National Broadcasting Company. Jack H. Olender represented Impact Advertising Agency and J. Gregory Aires.

As a result, the attorney Jack H. Olender representing one of the defendants in above infringement suit, Mrs. Ruth Graze, owner of Impact Advertising, followed immediately by filing in the same court a separate suit—

Civil Action 737-65, filed March 29, 1965, *one month* after service of the infringement suit on his client Mrs. Graze, which suit charge of slander was based upon a made-up telephone conversation alleged to have transpired between petitioner and a friend of Mrs. Graze, and which shocking story was maliciously manufactured as a damaging, cruel and evil device, and used by the defendant attorneys to force petitioner into dropping the infringement of copyright suit, and to influence petitioner's counsel, as the evidence discloses.

Both suits Civil Action 187-65 and Civil Action 737-65 have been brought together and made one case by actions of the attorneys, the court records, and the voluntary statements of respondent (plaintiff) Mrs. Graze while she was a witness at the trial hearing of her slander suit 737-65.

Offers of settlement negotiations were made by defendant attorneys offering to drop the *half million dollar* slander suit Civil Action 737-65 if petitioner would agree to settle the infringement of copyright suit Civil Action 187-65 for two thousand dollars! (The defendants continued the infringement of copyrights, *commercially and gainfully after noticed*, for a period exceeding two years on almost daily basis in *defiance of and disrespect for the law.*)

On April 4th and 5th, 1966 the half million dollar slander suit 737-65 came on to be heard in the United States District Court for the District of Columbia Circuit *without a jury*, and with erroneous ruling of damages against petitioner in the amounts of two hundred and fifty dollars punitive and two hundred and fifty dollars compensatory damages, although no compensatory damages were asked and no proof whatever of any damages offered by plaintiff Graze, who stated she had lost no business, had seen no doctor, and further her husband Gerald Graze whose hearsay testimony was allowed by

the court over objection of petitioner's counsel stated he didn't believe the alleged remark supposedly said over the telephone, and even to the witness Legg whose testimony the case was based on said he didn't believe it!

On the above dates of trial in 737-65 petitioner had approximately 20,000 persons in Washington, D. C. which convention was the American Personnel and Guidance Association, comprising America's professors and counselors to whom petitioner was responsible for the planned program of social activities and professional visitations including a State Department Tea and a White House visit. She was advised by counsel, however, that she would not be long in court; that he was going to ask for a dismissal as there is no proof whatever of the alleged telephone conversation (basis of suit), and she could go back to the Washington Hilton Hotel and her duties.

The Judge presiding did not know petitioner nor her position in the community, nor that she was responsible for a State Department Tea with the wives of the Cabinet members that very afternoon. The Court's ruling in Findings of Fact (10) reveal that he was influenced by the slurring innuendoes and hearsay evidence by plaintiff and counsel—admitted into the record over objections of defense counsel—and wrongly ruled as a result of the implications of these maliciously manufactured accusations, prejudicing petitioner.

Approximately *four months after* the above slander suit ruling against petitioner in suit 737-65 the forced partial settlement of suit 187-65 was effected by and between the attorneys for both sides, at a time when petitioner was under heavy sedation for a serious ailment caused by the harrassment of these attorneys in these two connecting cases (App. G, doctor's certificate) and their wilfull persecution of using a made-up telephone conversation as a basis for allegation, *with no proof whatever that it ever transpired except the hearsay testimony*

of a friend of the plaintiff Mrs. Graze, who as the only witness changed his testimony several times!

In the above trial hearing in case 737-65 the court permitted Mrs. Graze's witness Legg to testify as to the alleged telephone conversation but *refused to allow petitioner to testify* as to what was said in the alleged telephone conversation, and *over objection of petitioner's counsel* the court allowed Mrs. Graze's husband (Gerald Graze) to testify as to what his wife told him and *ruled on that hearsay evidence*, and further prejudiced petitioner by permitting Mrs. Graze (plaintiff) herself to testify as to what she had repeated to other people about what witness Legg had supposedly said to her!

Petitioner appealed above ruling in case 737-65 to the United States Court of Appeals, represented by a Washington law firm Friedlander and Friendlander, heard September, 1966 Term, with ruling rendered February 16, 1967 (App. C) denying petitioner and affirming lower court ruling, but without rendering any reason therefor. And no written opinion handed down.

Petitioner did not appeal ruling of the Court of Appeals to the Supreme Court at that time because both of these two connecting cases go together since the partial settlement of the one, C. A. 187-65 was effected as a coercion and result of the erroneous court judgment of the other, C. A. 737-65. The herein evidenced fraud and collusion vitiates the time statute for within petition for review, as both of these connecting cases properly go together for review.

The United States Court of Appeals granted respondent's motion to dismiss petitioner's request for a hearing on the forced partial settlement of the infringement suit, and the within appeal ensued.

REASONS FOR GRANTING THE WRIT

Fraudulent Practice of Law by Attorneys When Upheld by Courts Below in the Light of Evidence Adduced Constitutes Violation of Equal Protection, Property Rights and Due Process, Which if Allowed to Continue Places the Public at Large and Citizen's Rights in Jeopardy, Demolishing the Very Essence and Reason for the Constitution and the Bill of Rights.

The importance and necessity of plenary consideration in these two connecting cases rests on the deliberate fraud which if sanctioned by the courts and allowed to continue will permeate the American way of life, distorting and abolishing the provisions of the Federal Constitution and the Bill of Rights.

The Constitution in its entirety is based upon a structure balance for the common good, resorting to the fundamental rights of the individual:

> "The whole people covenants with each citizen, and each citizen with the whole people that all shall be governed by certain laws for the common good."

As Justice Burger recently expressed the established principle so very well in connection with an Urban Highway case, "A check and balance basic to our entire system of Government".

The Court below ruled April 28, 1970 (App. B) denying petitioner hearing on motion by respondents to dismiss, and citing "*Mayfair Extension Inc.* v. *Magee*, advanced by the respondents, as reason therefor.

As advanced by respondents: "In *Mayfair Extension Inc.* v. *Magee*, 241 F.2d, 453, 100 U.S. App. D. C. 48, 1967 this court states on page 454:

> "Under this rule 60(b) a default judgment may be set aside for fraud * * *, misrepresentation, or other misconduct of an adverse party. Appellant

> argues that a motion to vacate for such reason may be brought any time within one year. But the rule requires that the motion shall be made within a reasonable time, and when based upon Rule 60(b) (3) not more than one year after the (default) judgment * * *."

The above rule states a default "judgment" may be set aside. There was no "judgment" involved in the forced partial settlement, and *there was no court record filed on the action*, and the court knew nothing about it. It was executed by the attorneys themselves. *Also, the quoted one year period within which to act does not apply as petitioner was represented by the same counsel who executed the forced partial settlement in collusion with the opposition attorneys and concealed from petitioner all of her rights, as the following discloses:*

Using the case 737-65, threats were made to petitioner to drop the infringement of copyright suit 187-65, and coercion employed by counsel on both sides, with threats from petitioner's own counsel in collusion with the defendant attorneys, as evidenced by the following:

1. Petitioner's counsel James S. Gardiner agreed with the defendant attorneys Hans A. Nathan and Jack Olender to suppress from court filing the deposition of the key witness Charles F. Snyder (Nathan's client) wherein the perjured statement exists concerning the material point of issue causing case to be instituted. See Appendix H, a letter from Nathan to petitioner's counsel Gardiner dated August 5, 1966, and Appendix I, identified as the first four pages of the Snyder deposition wherein it is revealed that defendant attorney Hans Nathan had made an understanding and agreement, *prior to the taking of the Snyder deposition*, with Jack Olender representing the other two defendants that; 1) they would file to suppress the Snyder deposition, and 2) Olender advised Nathan (App. I p. 30) that he had

filed a motion which would relieve Nathan from appearing and producing the witness Synder!

It should be noted that ***THREE DIFFERENT DATES*** had been scheduled for the taking of the Snyder deposition prior to the actual taking (App. I) with excuses made by defendant attorneys Nathan and Olender *ON ALL THREE OCCASIONS* in their conspiracy *not to appear at the same time* for the taking of the Snyder deposition. The records reveal that their secret agreement was for one of them to appear and the other would file to suppress it because of the absence of the other, displaying disregard for legal procedures in their conspiracy to cheat and deprive petitioner.

2. Hans A. Nathan, representing defendants Kansas City Stockyards and N.B.C. in the infringement of copyright suit 187-65 personally appeared at the deposition taking of the witness Legg in suit 737-65 filed by Jack Olender (App. J, identified as cover page of Legg deposition revealing appearance of Nathan).

3. Jack Olender announced to petitioner's counsel Gardiner and petitioner on date he appeared in counsel Gardiner's office—at a time when Nathan refused to appear—for the deposition of taking of Charles F. Snyder in the infringement suit of which his client Graze was a defendant, "We are suing your client for libel and slander in a separate suit."

4. Petitioner's counsel James S. Gardiner agreed in collusion with the defendant attorneys not to proceed with discoveries after granted court order (App. K dated May 17, 1965 and App. L granting thirty days in which to take the discoveries). Petitioner's counsel Gardiner concealed from his client the number of days allowed by the court for the continued discoveries.

Knowing that the discovery proceedings was the vital issue and the *core* of a fair settlement since de-

fendant attorneys in the infringement suit had expressed that they did not want the radio and television witnesses disturbed, petitioner's counsel Gardiner colluded in secret with the defendant attorneys and withheld from his client the number of days for discoveries, thus violating petitioner's rights and depriving her legal rights and due process, as provided under the Bill of Rights and the Constitution.

Petitioner learned from counsel Gardiner sometime *after* the within partial settlement was executed between and among the attorneys *without a court order* or *sanction of court* that he (Gardiner) had made an agreement with the defendant attorneys upon leaving the courthouse on the day when he was granted the court order to continue the discoveries that, *he would not continue to represent petitioner if he could not force her into a $2,000.00 settlement, and that he would not continue with the court order granting additional discovery proceedings*, and Gardiner advised petitioner that since he had made the agreement with them (defendant attorneys) and assured them that he would not proceed, he could not "go back on his word", or his assurance to them.

5. Both suits C. A. 187-65 and C. A. 737-65 were offered in settlement by proffered release by defendants dated July, 1965.

6. Jack Olender who instituted the slander suit 737-65 for the defendant Graze, party in the infringement suit 187-65, advised that they would be willing for the *Kansas City Stockyards Company to pay the settlement fee for them and all the defendants in the infringement suit* and would agree to drop the slander suit if petitioner would write a letter of apology to Mrs. Graze in lieu of the $500,000.00 damages asked in the slander suit. (See App. M, a letter from Jack Olender to petitioner's counsel Gard-

iner dated September 4, 1965 in which Olender states that his half million dollar slander suit is of no value, and that it would only be an "expensive and unprofitable" litigation. *Note that Olender mailed a carbon copy of the letter to Hans A. Nathan, defendant attorney with Olender in the infringement of copyright suit.*

Rightfully, petitioner refused to give an apology for something which she did not say, and which manufactured story was being used as a harrassment and intimidation tool in forcing settlement conditions of the infringement of copyright suit.

Although petitioner's counsel Gardiner accepted from petitioner the exact amount of fees which he requested to represent her in both of these two connecting cases, he abandoned his responsibilities to the connecting slander suit which resulted from the infringement of copyright suit which he instituted, forcing petitioner to pay out additional legal fees in the employing of other legal counsel to finish his responsibility to the case. Friedlander and Friedlander, a Washington law firm, represented petitioner in the balance of the slander suit 737-65 which case was heard in the U. S. District Court on April 4th and 5th, 1966.

The court erred in allowing hearsay testimony by the plaintiff OVER THE OBJECTION OF PETITIONER'S COUNSEL, and prejudiced the petitioner by refusing to allow her to testify as to the alleged telephone conversation (basis of suit)! The court allowed the hearsay testimony of the plaintiff Mrs. Graze's husband (Gerald Graze) and ruled on that hearsay testimony by stating in FINDINGS OF FACT (10) "The plaintiff and her husband, Gerald Graze, impressed the court as being truthful witnesses and respectful citizens" and permitted Mrs. Graze to testify as to what she had repeated to other people about what witness Legg was supposed to have said to her!

The following is from the court transcript of the trial:

"MR. FRIEDLANDER: Your Honor, might I address myself to this particular problem? We have had testimony here in this case, over my objection, of conversations between Mrs. Graze and her husband. Mr. Legg has testified for the plaintiff as to conversations he had with Mrs. Graze, which of course is hearsay because they are on the same side. And he has testified as to conversation between himself and the defendant, which would not be hearsay. Now, he has testified to it. We wish to offer our view of these same conversations which have been testified to. And we would submit that we ought to be able to offer our view of the same conversations, because it is a fact that the conversation (103) between Miss Ray and Mr. Legg are hearsay, I would agree to having the court exclude all of them; because that would of course dispose of the whole case, because their case is based upon a conversation between my client and Mr. Legg. I don't know why—

THE COURT: She can state what she said.

MR. FRIEDLANDER: Well, the whole case is based on what she is supposed to have said to Mr. Legg.

THE COURT: That is right.

MR. FRIEDLANDER: If one part of the conversation would be admissible, all of the conversation between them ought to be admissible, because they are opposing parties. This is between the witness for the plaintiff and the defendant, as distinguished from the statements between a witness for the plaintiff and the plaintiff, and the plaintiff herself and her husband—of these things have been testified to."

See the appeal brief filed in the U. S. Court of Appeals (D. C.) in above case No. 20,444, the following statement by petitioner's counsel, page 6:

"At the same time that the court permitted all of the hearsay evidence to be put into evidence, it refused to allow Appellant to testify as to her version of a subsequent conversation that she had with the wit-

ness Legg on the grounds that it was hearsay (JA 102).

The Court made the incredible ruling that it would permit the witness to testify as to what she said to Legg but not as to what Legg responded (JA 37-38). This was in spite of the fact that the witness Legg, on behalf of Appellee, had testified as to his half of this second conversation. The record did show, however, that Legg admitted that after Graze had sued Ray for slander, Ray had called him and asked him if she, Ray, had ever made the statements alleged in the complaint, and he admitted at that time that *she had not* (JA 11-12), but that he would not repeat what he just said to Miss Ray's lawyer until after he had checked with Graze (JA 12-13)."

Whereupon it is revealed (JA 12-13) that Legg and Mrs. Graze made up the alleged telephone conversation, and that prior to his telephoning Mrs. Graze he had offered to give petitioner and her lawyer a statement that petitioner *did not make the remark to him.* However, after contacting Mrs. Graze he offered to give her (Mrs. Graze), with whom he was in business in exchange of services, *a statement to the contrary,* which statement written by Mrs. Graze was signed by Legg *that very day* as a result of their manufactured story on the telephone, all of which was executed by Mrs. Graze's counsel Olender, by his own admission (See Ruth G. Graze deposition).

(It should be noted that in all of the years that witness Legg solicited petitioner's (Ray) agency business he never received any business whatever from her, and was angered by this fact.)

Petitioner's counsel Friedlander continues on page 7 of his brief, Case No. 20,444 filed in U. S. APP., D. C., September Term:

"The combination of refusing to allow Miss Ray to testify as to her version of this conversation on the grounds that it was hearsay (which it was not), and

> on the other hand permitting Legg to testify as to what he told Graze, and in turn to permit Graze to testify as to what had been told to her, and further to permit Mr. Graze to testify as to what his wife told him had been told to her, was prejudicial error. . . ."

The Court even admitted in its Findings of Fact (#3) that the witness Legg, whose word it based its ruling on, *could not remember the exact words* supposedly spoken on the telephone by petitioner! And the Court ruled on that wishy-washy memory!

The Court further erred by ruling compensatory and punitive damages against petitioner in light of the fact that no proof was offered for either in support of the *alleged vaguely remembered* statement, especially since witness Legg testified that there was no malice in the alleged "off-hand" remark (JA 15-16), and no proof of damages advanced by plaintiff Graze. The Court's own ruling (Findings of Facts—4) states that the alleged remark was made in an off-hand manner, and not as an accusation, and "at no time did the witness Legg believe the statement", yet the Court ruled damages!

Prejudicing petitioner, the Court advanced the thought (See Appellant's Brief, Case No. 20,444, APP. D. C., AT BENCH JA-19) that plaintiff Graze may have been "upset" and he would allow the hearsay testimony of her husband! Plaintiff Graze's counsel used the "upset" after that, as did all the witnesses for Mrs. Graze—and the Court ruled on that "upset".

The witness Legg changed his testimony at the trial hearing from that which he swore to in his deposition a year before, as a result of a meeting with plaintiff Graze and her counsel Olender (JA 14-15). The Court erred in overlooking witness Legg's inconsistency in the changing of his sworn statements and the discrepencies of his testimony at trial hearing, and further prejudiced petitioner by the following incredible ruling: (Findings of Fact)

"8. The testimony of witness Legg was disinterested and his demeanor on the witness stand was consistent with truthfulness."

Witness Legg stated that the alleged off-hand remark was not made in malice, yet plaintiff Graze's counsel Olender charged in the complaint that petitioner had made the alleged remark to witness Legg "maliciously". Legg denied that in court, and he denied other strong accusations made by Olender in the complaint that he was supposed to have said to Mrs Graze upon which the slander suit 737-65 was based! It is apparent that Mr. Olender did not check with witness Legg before making his accusations in the complaint! And further, he *built on* the made-up telephone conversation (which he had a hand in manufacturing by executing the Legg statement for Graze, attached to the Graze deposition) *trying to make a case out of nothing of evidence*, and in desperation, adding slurring hints and innuendoes to influence against petitioner in an effort to discredit her character and thus give discredit to her word as a witness in the connecting infringement of copyright suit, especially since his countersuits of libel in a total aggregate amount of $160,000.00 to the infringement of copyright suit depended upon the credence of petitioner's word as a witness in that suit.

Jack Olender filed the slander suit 737-65 for his client Mrs. Graze in the United States District Court for the District of Columbia Circuit on March 29, 1965, (JA I) stating "1. The amount in controversy is in excess of $10,000.00." and requesting $250,000.00 as compensatory damages and $250,000.00 as punitive damages", a total of a *half million dollars!* Yet Mr. Olender wrote to petitioner's counsel Gardiner (App. M) stating that the slander suit 737-65 was of no value and would be expensive and unprofitable for all! Yet he used the courts for this farce and coercion in effecting settlement of the infringement of copyright suit in which his client Mrs. Graze is a defendant—*taking up the time of the court!*—and petitioner's

(Ray) valuable time which is better used in serving the public interest in her public relations field explained elsewhere herein.

The Court upheld almost everything Olender advanced, as the evidence reveals, prejudicing petitioner, even to the clearly unreasonable and incredible ruling wherein the court states that Legg was a "disinterested witness" (Findings of Fact—8) whereas Legg testified several times at the court trial his concern for Mrs. Graze's well being and security and his interest in her business, and under redirect examination (See testimony JA-18) Legg stated that he was concerned "where a remark like that could spread around and do her harm". Yet the Court, having been influenced by the nature of the manufactured remark and the hearsay evidence permitted in the record, ruled that Legg was a *disinterested* witness!

The slander suit Civil Action 737-65 was ruled April 29, 1966, U. S. District Court (D.C.) against petitioner in total amount of $500.00.

Approximately *four months* later, on date August 26, 1966, the partial settlement of the infringement suit Civil Action 187-65 was executed between and among the attorneys without a court judgment, or court sanction as a result of the intimidation and harrassment of the tragic ruling of the slander suit, and at a time when petitioner was under sedation for a serious and permanent illness due to the combined harrassment and collusion between the attorneys in effecting the herein partial settlement (App. G, Doctor's certificate).

Petitioner tried to return the check. Petitioner's counsel Gardiner kept assuring petitioner that he would talk to the defendant attorneys and explain to them that petitioner wanted to return the check for $2,000.00 (which, by the way, has never been used by petitioner as she feels the money is not hers to use as it was forced upon her at a time when she could not think clearly), which

promise by counsel Gardiner was never kept, and he abandoned his responsibilities to the connecting slander suit, but remained petitioner's counsel of record in the infringement of copyright suit up until December 23, 1967—*a year and four months after* the forced partial settlement of the infringement suit which he executed on August 26, 1966, thus depriving petitioner her rights under statute procedures in his collusion with the defendant attorneys, if in fact Rule 60(b) of the Federal Appellate Procedure, applies herein, which it does not, because Rule 60(b) clearly states a court "judgment" may be set aside, and there is no judgment involved.

Petitioner was represented by the same counsel who was working in collusion with the defendant attorneys, as the evidence discloses, during the time period specified in Rule 60(b) in which to act.

The fraud and collusion between the attorneys vitiates laches, and voids and nullifies all other actions herein.

TURNER v. EDWARDS, 292 N. W., 257
"Generally fraud renders voidable everything into which it enters."

The collusion and secret agreement with the defendant attorneys until past the expiration time allowed by court order for discoveries, and concealing the same from his client (petitioner), counsel Gardiner has thus deprived petitioner fair representation and due process entitling her to a fair property damage settlement instead of the forced partial settlement of $2,000.00 effected under duress and coercion by the harrassment of these attorneys in their wilfull persecution of using a made-up telephone conversation—*with no proof whatever that it ever transpired except the hearsay evidence of a friend of the plaintiff Mrs. Graze, who as the only witness changed his testimony several times!* Thereby petitioner is seeking and respectfully requests a review of this Honorable Court to set aside the partial settlement effected under

duress, and to expunge from the court records the erroneous rulings in the unfortunate connecting slander suit in U.S. App. D.C. Case No. 20,444, Civil Action 737-65 in the U. S. District Ct. (D.C.), as it is damaging to petitioner to remain on the record against her, and to assess the costs herein to the respondents, so that the infringement of copyright suit may be placed in proper order for a fair trial.

CONCLUSION

For the reasons stated above, certiorari should be granted.

Respectfully submitted,

CANDIS O. RAY,
Pro se
2700 Connecticut Avenue, N.W.
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SEPTEMBER 1, 1970

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SEPTEMBER TERM, 1969

[Filed Jun. 3, 1970, United States Court of Appeals for the District of Columbia Circuit, /s/ Nathan J. Paulson, Clerk.]

Civil 187-65

No. 23,789

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Appellant,

v.

KANSAS CITY STOCK YARDS COMPANY OF MAINE, t/a GOLDEN OX RESTAURANT, ET AL.

Before: BAZELON, Chief Judge, MACKINNON, Circuit Judge, in Chambers.

ORDER

On consideration of appellant's petition for rehearing, it is

ORDERED by the Court that appellant's aforesaid petition is denied.

Per Curiam
For the Court:

NATHAN J. PAULSON
Clerk

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SEPTEMBER TERM, 1969

[Filed Apr. 28, 1970, United States Court of Appeals for the District of Columbia Circuit, /s/ Nathan J. Paulson, Clerk.]

Civil 187-65

No. 23,789

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Appellant,

v.

KANSAS CITY STOCK YARDS COMPANY OF MAINE, t/a GOLDEN OX RESTAURANT, ET AL.

Before: BAZELON, Chief Judge, MACKINNON, Circuit Judge, in Chambers.

ORDER

On consideration of appellees' motion to dismiss the appeal and of the responsive pleadings filed with respect thereto, it is

ORDERED by the Court that appellees' aforesaid motion be granted and this appeal is dismissed. See *Mayfair Extension Inc.* v. *Magee*, 241 F.2d, 453, 100 U.S. App. D.C., 48 (1957).

Per Curiam

APPENDIX C

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SEPTEMBER TERM, 1966

[Filed Feb. 16, 1967, United States Court of Appeals for the District of Columbia Circuit, /s/ Nathan J. Paulson, Clerk.]

Civil 737-65

No. 20,444

CANDIS O. RAY,

Appellant,

v.

RUTH G. GRAZE,

Appellee.

Appeal from the United States District Court for the District of Columbia

Before: PRETTYMAN, Senior Circuit Judge, and BURGER and MCGOWAN, Circuit Judges.

JUDGMENT

This cause came on to be heard on the record on appeal from the United States District Court for the District of Columbia, and was argued by counsel.

On consideration whereof It is ordered and adjudged by this Court that the judgment of the District Court appealed from in this cause be, and it is hereby, affirmed.

It is further ORDERED by the Court that appellee herein recover from appellant her taxable costs on this appeal, and have execution therefor.

Per Curiam

Dated: Feb. 16, 1967

APPENDIX D

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[Filed Nov. 3, 1969, Robert M. Stearns, Clerk.]

Civil Action No. 187-65

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Plaintiff,

v.

KANSAS CITY STOCK YARDS COMPANY OF MAINE,
a corporation, t/a GOLDEN OX RESTAURANT, ET AL.,
Defendants.

ORDER

Upon consideration of plaintiff's petition for reconsideration, and the opposition thereto, it is this 3rd day of November, 1969,

ORDERED that the petition for reconsideration be, and the same hereby is, denied.

/s/ JOHN J. SIRICA
United States District Judge

APPENDIX E

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 187-65

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Plaintiff,

v.

KANSAS CITY STOCK YARDS COMPANY OF MAINE,
a corpoartion t/a GOLDEN OX RESTAURANT,
NATIONAL BROADCASTING COMPANY, INC.,
IMPACT ADVERTISING AGENCY, INC.,
GREGORY J. AIRES, t/a AIRES PUBLISHING COMPANY,
Defendants.

PETITION FOR RECONSIDERATION

Comes now the Plaintiff and Petitions this Honorable Court to Reconsider denial ruling dated October 17, 1969 to Plaintiff's Motion To Set Aside Partial Settlement And Title Transfer Effected Under Duress for the reason that the fraud charges were omitted in the ruling and order, and for the further reason that Plaintiff cannot be blamed for laches, nor guilty of same because of the irregular and unusual circumstances of this case and the fact that Plaintiff offers proof that she has diligently and constantly scught representation to go forward, but was curtailed and denied to go forward because of the unusual circumstances involved in this case. And for further reason that Defendant Counsel's false statements sworn under oath to this Honorable Court were not considered.

Respectfully submitted,

/s/ Candis O. Ray
CANDIS O. RAY
Plaintiff

APPENDIX F

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[Filed Oct. 17, 1969, Robert M. Stearns, Clerk.]

Civil Action No. 187-65

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Plaintiff,

v.

KANSAS CITY STOCK YARDS COMPANY OF MAINE,
a corporation, t/a GOLDEN OX RESTAURANT, ET AL.,
Defendants.

ORDER

Upon consideration of plaintiff's motion to set aside partial settlement and title transfer effected under duress, defendant's reply, plaintiff's answer to defendant's opposition, and the exhibits submitted by plaintiff in support thereof, and having held a hearing on this motion, it being the opinion of the Court that plaintiff's claim that the settlement signed by plaintiff on August 26, 1966, was entered into under duress, has no merit, and further that this motion is barred by the equitable doctrine of laches, it is this 17th day of October, 1969,

ORDERED that plaintiff's motion be, and the same hereby is, denied.

/s/ JOHN J. SIRICA
United States District Judge

APPENDIX G

JOHN R. EWAN, M. D.
916 - 19th Street, N. W. • Washington, D. C. 20006
Suite 420
REpublic 7-4600

February 5, 1969

RE: CANDIS RAY

To Whom It May Concern:

This is to certify that Miss Candis Ray has been under my medical care since August 1964. She suffers from a severe recurrent form of diverticulitis of the colon. During the summer of 1966 she underwent an unusually severe attack. It is probable that this was brought on as a result of a nervous tension suffered as a result of a law suit.

She is a tense, sensitive individual and very susceptible to any upsetting or distressing stimuli. She requires constant medication for her condition and sees me for medical checkups at regular intervals.

Respectfully yours,

/s/ John R. Ewan, M.D.
JOHN R. EWAN, M.D.

JRE/jal

APPENDIX H

LAW OFFICES OF
TRAMMELL, RAND & NATHAN
Suite 308
1730 K Street, N.W.
Washington, D. C. 20006

Telephone 296-7840
Cable Address "Hanslaw"

August 5, 1966

James S. Gardiner, Esq.
Woodward Building
Washington, D. C. 20005

Dear Jim:

I have since heard from Kansas City and my clients are rightfully uneasy about attempting a settlement on terms that have been twice rejected and caused our clients to incur additional expense, not only for lawyers' fees but also for disbursements. Miss Ray only very recently had the Snyder deposition transcribed, although it had been agreed that it would not be transcribed as it was suppressed, causing my office to get a copy and to expend the amount of $23.53. Similarly, I had a couple of long distance calls and spent another couple of hours reviewing the file, etc.

The Golden Ox people want me to deduct this amount from the settlement offer and have authorized me to go ahead and settle for $2,000 less the additional fees incurred, since the offer was last rejected. In order to show my own good will in trying to get this matter settled, I will charge no more than $100 additional fee to date, and, therefore, I am authorized to settle the case for the amount of $2,000 less $123.53 or $1,876.47. If this is agreeable to Miss Ray I will prepare a fairly simple re-

lease patterned after the last one, but eliminating any language which might offend Miss Ray, and incorporating a license to her to use any language from the material which does not conflict with the Golden Ox advertising.

I think that Mr. Olender would have his clients join in dismissal of this case without any payment or apology to them as long as the slander litigation is not affected.

I will be out of the country for the next ten days or two weeks and I hope that upon my return we can dispose of this matter.

Sincerely yours,

/s/ H. A. N.
HANS A. NATHAN

APPENDIX I

[1]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CIVIL DIVISION

Civil Action No. 187-65

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Plaintiff,

vs.

KANSAS CITY STOCK YARDS COMPANY OF MAINE,
a corporation, t/a GOLDEN OX RESTAURANT;
IMPACT ADVERTISING, INC.;
NATIONAL BROADCASTING COMPANY, INC.;

and

GREGORY J. AIRES, t/a AIRES PUBLISHING COMPANY,
Defendants.

Washington, D. C.,
Wednesday, April 14, 1965

Deposition of

CHARLES F. SNYDER

a witness, called for examination by counsel for the plaintiff, [2] pursuant to notice, a copy of which is attached to the court copy of this deposition, and agreement of counsel as to change in date, in the offices of James S. Gardiner, Esq., 1053 National Press Building, Washington, D. C., beginning at 4:05 o'clock p.m., before Hilmar K. Klamans, Jr., a Notary Public in and for the District

of Columbia, when were present on behalf of the respective parties:

For the Plaintiff:

JAMES S. GARDINER, ESQ.

For the Defendants Golden Ox Restaurant, National Broadcasting Company, and the witness:

TRAMMALL, RAND AND NATHAN
BY: HANS A. NATHAN, ESQ.

EXAMINATION BY COUNSEL FOR:

WITNESS:

CHARLES F. SNYDER

PLAINTIFF

(Mr. Gardiner)
4

EXHIBITS

PLAINTIFF'S EXHIBIT NO.

1 (A copy of a letter entitled, "Notice to all Advertising Media" dated July 10, 1964.)

FOR IDENTIFICATION
40

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[3] MR. GARDINER: I would like to make a brief statement.

At approximately 11:15 this date, I was served with a copy of a motion to continue the deposition filed on behalf of Jack H. Olender, attorney for Impact Advertising, Inc. In view of the fact that Mr. Olender did not

request to go to court prior to the taking of the deposition of Charles Snyder, it is my opinion that the particular motion is of no effect.

I was willing if and when Mr. Olender wanted to take the matter up with the judge sitting in motions court and would have appeared at any time prior to the taking of this deposition.

That is all I have to say.

MR. NATHAN: I received a phone call from Mr. Olender prior to the service of the motion and I asked him whether he was going to go down to court and take it up as a preliminary matter. He said he was not and suggested to me that the filing of the motion relieved me from producing the witness. My own understanding of the law is different and I called you, Mr. Gardiner, and indicated to you that this was happening and I was personally willing to continue the deposition, but if you were not going to continue it, I felt that I would have to produce a witness and could not take a chance with regard to sanctions under Rule 37.

Mr. Olender said he would move that the deposition be [4] suppressed and not filed, but under the circumstances I have produced the witness and will abide by the ruling of the court.

Personally, I think the motion is moot, but at the moment the deposition is being taken. It is up to you and Mr. Olender. I reserve the right to file such response to any further motion as may be indicated.

Thereupon,

CHARLES F. SNYDER

a witness, was called for examination by counsel for the plaintiff and, after having been sworn by the notary, was examined and testified as follows:

* * * *

APPENDIX J

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION

Civil Action No. 737-65

RUTH G. GRAZE,
Plaintiff,

vs

CANDIS O. RAY,
Defendant.

Washington, D. C.,
Thursday, May 6, 1965.

Deposition of

WILLIAM LEGG,

a witness, called for examination by counsel for defendant, pursuant to notice, a copy of which is attached to the court copy of this deposition, in the law offices of James S. Gardiner, 1053 National Press Building, Washington, D. C., beginning at 2:10 p.m., before Robert L. Friedli, a notary public in and for the District of Columbia, when were present on behalf of the respective parties:

JACK H. OLENDER, ESQ., for the plaintiff.

JAMES S. GARDINER, ESQ., for the defendant.

Also present: *Hans A. Nathan, Esq.*, and Candis O. Ray.

* * * *

APPENDIX K

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Civil Division

Civil Action No. 187-65

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Plaintiff,

v.

KANSAS CITY STOCK YARDS COMPANY OF MAINE,
A CORPORATION t/a GOLDEN OX RESTAURANT

and

IMPACT ADVERTISING, INC.

and

NATIONAL BROADCASTING COMPANY, INC.

and

GREGORY J. AIRES t/a AIRES PUBLISHING COMPANY,
Defendants.

ORDER

This Matter having come on by motion and supplemental prayer of defendant Impact Advertisting, Inc., and by opposition thereto by plaintiff and by defendant Kansas City Stock Yards Company of Maine, and by argument of counsel, it is by the Court, this 17th day of May, 1965,

ORDERED,

1. That the deposition of Charles F. Snyder taken on April 14, 1965, not be used for any purpose in this cause:

2. That the deposition of Charles F. Synder may be taken upon the filing of a Notice of Taking Deposition; and

3. That if the deposition of Charles F. Synder is taken, the party taking it will pay Twenty-Five ($25.00) Dollars counsel fees to Hans A. Nathan, Attorney for defendant Kansas City Stock Yards of Maine.

JUDGE

APPENDIX L

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 187-65

CANDIS O. RAY t/a CANDIS O. RAY AGENCY,
Plaintiff,

vs.

KANSAS CITY STOCK YARDS CO. OF MAINE, ET AL.,
Defendants.

OPPOSITION TO CALENDAR CASE FOR TRIAL

Comes now the plaintiff by and through her attorney and opposes the motion to place this cause on the Ready Calendar, and represents the following:

1. That Plaintiff's case is not ready for trial.

2. That Plaintiff plans and intends to take further discovery under the Federal Rules of Civil Procedure.

3. That Plaintiff is presently out of the District of Columbia and counsel plans to confer with her upon her return.

4. And for such other reasons as may be advanced at the time of hearing of this matter.

/s/ JAMES S. GARDINER
Attorney for Plaintiff
1053 National Press Building
Washington, D.C.

CERTIFICATE OF SERVICE

I certify that a copy of above was mailed this 26th day of May 1965, to Hans A. Nathan, 1730 K Street, N.W., Washington, D.C., and Jack H. Olender, Esquire, 910 - 17th Street, N.W., Washington, D.C., Attorneys for defendants.

/s/ JAMES S. GARDINER

APPENDIX M

Law Offices
JACK H. OLENDER
Washington, D. C.

September 4, 1965

James S. Gardiner, Esq.
National Press Building
Washington, D. C. 20004

Re: Candis O. Ray Litigation

Dear Jim:

I have not heard from you since our conversation of August 27. At that time I informed you that my client Mrs. Ruth Graze was willing to enter into a deposition of the litigation involving her and your client Miss Ray upon execution of a letter from Miss Ray acknowledging absence of all wrongdoing by Mrs. Graze. I have since talked with Mrs. Graze, and while she is willing to forego reimbursement of her considerable expenses of litigation which she feels was thrust upon her without cause, she does insist that such a letter be forthcoming before she will withdraw her claims against Miss Ray.

I would suggest that a letter on Miss Ray's letterhead along the following lines would be satisfactory to Mrs. Graze, would in no way impugn Miss Ray, and would obviate the need for protracted, expensive and *unprofitable* litigation for all concerned:

"Dear Mrs. Graze:

This is to inform you that I have no reason whatsoever to believe that you conduct yourself in your business and personal life by any but the highest standards of integrity, morality and honesty, and that anything you may have heard or thought to the

contrary regarding my attitude toward you and your advertising agency must have been the result of a mistake or misunderstanding.

/s/ Candis O. Ray"

I hope you will favor me with a prompt response and hopefully, the requested letter, as I wish to either dispose of this litigation at this time or proceed with my preparation for trial. I am sending an information copy of this letter to Hans Nathan, Esq.

With kind regards, I am

Very truly yours,

/s/ Jack
Jack H. Olender

JHO/wwc
cc: Hans Nathan, Esq.

APPENDIX N

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Civil Division
C.A. No. 737-65

RUTH G. GRAZE,
Plaintiff,

v.

CANDIS O. RAY,
Defendant.

CONCLUSIONS OF LAW

1. That the plaintiff has failed to carry her burden of proof by a preponderance of the evidence that the defendant uttered any slanderous statements about plaintiff.

2. That Judgment should be entered for the defendant.

Let Judgment be entered accordingly, _____ 1966.

_____
Judge

FRIEDLANDER & FRIEDLANDER
Mark P. Friendlander
Mark P. Friedlander, Jr.
Blaine P. Friedlander
Harry P. Friedlander
1210 Shoreham Building
806 15th Street, N. W.
Washington, D. C. 20005
Na 8-1116
Attorneys for Defendant.

THIS IS TO CERTIFY That a true copy of the foregoing was mailed, postage prepaid, to Jack H. Olender, 701 Barr Building, Washington, D. C., attorney for plaintiff, this 8th day of April 1966.

_____
Mark P. Friedlander, Jr.